

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

June 25, 2002

IN RE:

**PETITION FOR APPROVAL OF THE
INTERCONNECTION AGREEMENT
BETWEEN BELL SOUTH AND TELE-
SYS, INC. D/B/A ACCESS AMERICA
TELEPHONE COMPANY**

)
)
)
)
)
)
)

DOCKET NO. 02-00352

ORDER

This docket came before the Tennessee Regulatory Authority at a regularly scheduled Authority Conference on June 11, 2002 for approval of the Interconnection Agreement between BellSouth Telecommunications, Inc. and Tele-Sys, Inc. d/b/a Access America. The Agreement was filed on April 3, 2002 and came before the Authority pursuant to 47 U.S.C. § 252.

The Telecommunications Act of 1996 requires that all interconnection agreements be submitted to the appropriate state commission for approval.¹ The state commission may approve or reject the agreement or it may choose not to act, under which circumstances the agreement will be deemed approved after a statutorily mandated period of time.² A state commission may reject an interconnection agreement if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience, and necessity.”³ While neither ground for rejection specifically

¹ See 47 U.S.C. § 252(e)(1)(Supp. 2001)

² See *id.* § 252(e)(4). A negotiated agreement is deemed approved ninety (90) days after its submission for approval and an arbitrated agreement is deemed approved thirty (30) days after its submission for approval.

³ *Id.* § 252(e)(2).

exists in this case, the Agreement contains language that is inconsistent with previous Authority orders.

Sections 5.3.7.1.2 and 5.4.2.1.2 of Attachment 2 provide that when elements are not currently combined, but are ordinarily combined in BellSouth's network, "the non-recurring and recurring charges for such UNE combinations shall be the sum of the stand-alone non-recurring and recurring charges of the network elements that make up the combination."⁴ These sections are inconsistent with the Authority's ruling in Docket No. 97-01262 requiring that "[u]nbundled network elements that are not already combined in BellSouth's network should be priced at the sum of the unbundled network element prices after adjustments for nonrecurring costs to reflect efficiencies."⁵

The second inconsistency appears at Section 8.5.1 of Attachment 4. This section provides: "Recurring charges for -48V DC power will be assessed per ampere per month based upon the BellSouth Certified Supplier engineered and installed power feed fused ampere capacity."⁶ This section is inconsistent with the Authority's ruling in Docket No. 00-00309 requiring that the per ampere rate for the provision of DC power should apply to amperes used and not to fused capacity.⁷

⁴ *Interconnection Agreement Between BellSouth Telecommunications, Inc. and Tele-Sys, Inc. d/b/a Access America Telephone Company*, Attachment 2, secs. 5.3.7.1.2 and 5.4.2.1.2 (Apr. 3, 2002).

⁵ *In re: Petition of BellSouth Telecommunications, Inc. to Convene a Contested Case to Establish "Permanent Prices" for Interconnection and Unbundled Network Elements*, Docket No. 97-01262, *Correction of Transcript of April 25, 2000 Authority Conference and Erratum to Second Interim Order Re: Revised Cost Studies and Geographic Deaveraging*, p. 2 (Mar. 6, 2001).

⁶ *Interconnection Agreement Between BellSouth Telecommunications, Inc. and Tele-Sys, Inc. d/b/a Access America Telephone Company*, Attachment 4, sec. 8.5.1 (Apr. 3, 2002).

⁷ *In re: Petition of MCImetro Access Transmission Services, LLC and Brooks Fiber Communications of Tennessee, Inc. for Arbitration of Certain Terms and Conditions of Proposed Agreement with BellSouth Telecommunications, Inc. Concerning Interconnection and Resale Under the Telecommunications Act of 1996*, Docket No. 00-00309, *Interim Order of Arbitration Award*, p. 43 (Apr. 3, 2002).

Given these inconsistency, a majority of the Directors voted to take no action on the Agreement.⁸

IT IS THEREFORE ORDERED THAT:

No action shall be taken on the *Interconnection Agreement Between BellSouth Telecommunications, Inc. and Tele-Sys, Inc. d/b/a Access America Telephone Company* filed by BellSouth Telecommunications, Inc. on April 3, 2002. By operation of Section 252(e)(4) of the Telecommunications Act of 1996, the Interconnection Agreement shall be deemed approved on July 2, 2002.

Sara Kyle, Chairman




H. Lynn Greer, Jr., Director



Melvin J. Malone, Director

ATTEST:



K. David Waddell, Executive Secretary

^{8, ****} Chairman Kyle did not vote with the majority. Instead, she voted in favor of approval.